



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2013

Ms. Heather Silver
Assistant City Attorney
Office of the City Attorney
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2013-21909

Dear Ms. Silver:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 509024.

The City of Dallas (the "city") received a request for records concerning a specified address and for a specified time period, including fire investigation and incident reports, dispatch records, arson records, and EMS records. You indicate the city will release portions of the requested information to the requestor. You state, in releasing portions of the requested information, the city will withhold certain information in accordance with Open Records Letter No. 2011-18466 (2011).¹ You claim the submitted information, which you state is a

¹Open Records Letter No. 2011-18466 serves as a previous determination under section 552.301(a) of the Government Code that the city's police department must withhold an originating address of a 9-1-1 caller furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination without the necessity of seeking an open records ruling on the requested information); Open Records Decision No. 673 (2001) (listing elements of second type of previous determinations under section 552.301(a)). Similarly, in Open Records Letter No. 2011-17075 (2011), this office issued a previous determination to the city's police department authorizing it to withhold the originating telephone number of a 9-1-1 caller furnished to the department by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code without requesting a decision from this office. *See* Gov't Code § 552.301(a); ORD No. 673 (2001).

representative sample of the information at issue, is excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987).

You have submitted two Incident Detail Reports. Upon review, we find the information we marked in one of the reports satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the other report does not identify the caller or any other individual to whom the comments or other information in the report relates. Thus, the release of the other report does not implicate the privacy rights of any named individual and the city may not withhold any information in the other report under section 552.101 in conjunction with the common-law right to privacy.

In summary, the city must withhold the information we marked based on section 552.101 and the common-law right to privacy. The city must release the remaining information at issue.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

²We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kay Hastings".

Kay Hastings
Assistant Attorney General
Open Records Division

KH/sdk

Ref: ID# 509024

Enc. Submitted documents

c: Requestor
(w/o enclosures)